



STATE ETHICS COMMISSION

Memorandum

To: Rick Thompson
Executive Secretary

Thru: Kay Baker *KB*
Deputy Executive Secretary

From: Tom Plank *TP*

Date: March 4, 2008

Re: In the Matter of Jamie Hernan
Case No. 2008-0032
Recommendation for Dismissal

Pursuant to SEC Rule 189-2-.03(5), it is recommended that this matter be administratively dismissed because the evidence does not support finding a violation of the Ethics in Government Act (Act). The allegations and findings are summarized herein.

Respondent is a managing partner of the law firm Hernan, Taylor & Lee (HTL), a firm of three attorneys. The allegation is that Respondent, who primarily practices immigration law, is required to register as a lobbyist and file lobbyist disclosure reports, yet has failed to do either.

As of February 18, 2008 (the date of the complaint), evidence shows that Respondent communicated with legislators on four occasions during the 2007 – 2008 legislative session. On February, 5, 2008, Respondent spoke against S.B. 350 at a committee hearing. On February 12, 2008, Respondent spoke with Representative Hill, Chairman of the House Special Rules Committee, at a committee hearing regarding H.B. 978 (both S.B. 350 and H.B. 978 affect illegal aliens who drive in Georgia). On February 14, 2008, Respondent submitted a letter (via email and on HTL letterhead) to Chairman Hill detailing his objections to H.B. 978. Respondent asserts that he did not use any of his firm's research resources to write the letter, that no one helped him write or research the letter in any way, that he typed the letter himself, that neither his partners or anyone else helped him edit the letter, and that no person or entity, including his own firm, was billed for his writing of the letter or for his time spent on the letter. On February 18, 2008, Respondent spoke at a hearing held by the House Special Rules Committee, and reiterated his concerns detailed in his letter of February 14, 2008.



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No evidence has been discovered showing that Respondent made any lobbyist expenditures, other than the *de minimis* cost of sending one email, or that he is paid to lobby. The evidence shows that Respondent has engaged in activity that is expressly exempt from the registration and disclosure requirements of the Act, specifically O.C.G.A. § 21-5-71(i)(1) and (2), which exempts "[a]ny individual who expresses personal views, on that individual's own behalf..." and "[a]ny person who appears before a public agency or governmental entity, committee or hearing for the purpose of giving testimony when such person is not otherwise required to comply with the registration provisions" of the Act. Although Respondent wrote the February 14th letter on HTL letterhead, because HTL only has three partners, the cost of such letterhead comes directly out of Respondent's own personal funds. The letter was delivered via email, so the transactional costs associated with its delivery do not exceed the \$250 reporting threshold.

Based upon the foregoing analysis, it is recommended that this case be administratively dismissed pursuant to SEC Rule 189-2-.03(5).